

### REMARKS

Claims 1-74 remain pending after entry of this amendment. Claim 74 was added herein. Claims 59-61 were amended herein. Favorable reconsideration is respectfully requested in light of the amendments and remarks submitted herein.

The Examiner has required a restriction between one of the following inventions under 35 U.S.C. § 121:

- I. Claims 1-58, drawn to a spermicidal composition comprising a gel-microemulsion comprising an oil-in-water microemulsion and a polymeric hydrogel, classified in class 514, subclasses 50, 78, 49, class 536, subclasses 123.1, 114, class 554, subclass 1+, class 556, subclass 42, class 564, subclass 17.
- II. Claims 59-61, drawn to a method for inhibiting the motility of sperm, classified in class 514, subclasses 50, 78, class 536, subclasses 114, 123.1, class 554, subclass 1+.
- III. Claims 62-73, drawn to a pharmaceutical composition adapted for the topical delivery of a therapeutic agent, classified in class 514, subclasses 50, 78, class 536, subclasses 114, 123.1, class 554, subclass 1+, class 530, subclass 852.

Applicant elects, with traverse claims 1-58, group I. Applicant respectfully submits that searching the claims designated as group II and III, would not cause an undue burden on the Examiner.

Regardless of the restriction and subsequent election, Applicant notes that based on MPEP § 821.04, once a product claim is found allowable, the claims directed to the process of using that product (which contain all of the limitations or are dependent from the allowable product claim) will be rejoined. The claims directed to the process of using that product must then be fully examined for patentability. MPEP § 821.04.

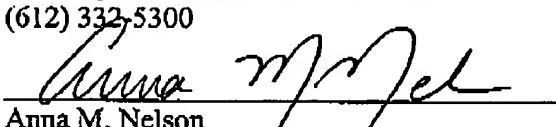
Applicant respectfully asserts that claims 59-61, as amended herein are directed to a process of using the product of claims 1-58, and therefore should be rejoined once the subject matter of claims 1-58 are found allowable.

In view of the above amendments and remarks, Applicant respectfully requests a Notice of Allowance. If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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Date: October 22, 2003

  
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